IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 9738 of 2003

Between:

1.M.Venkateswarlu, S/o Satyanarayana, The Kopalle Co-operative Rural Bank Limited, No.1805, W.G.,Kopalle, Kalla Mandal, West Godavari District.

2. K.Srinivasa Rajul, S/o Venkata Subba Raju, The Kopalle Co-Operative Rural Bank Kalla Mandal, West Godavari District.

3. A.Saigeeta, D/o Sreetharamaraju, The Kopalle Co-Operative Rural Bank Limited, No.1805,W.G.,Kopalle, Kalla Mandal, Wet Godavari District.

4. P.Srinivasa Rao, S/o Rama Krishna, The Kopalle Co-Operative Rural Bank Limited, No.1805, W.G.,Kopalle, Kalla Mandal,West Godavari District.

5. V.Sujatha, D/o Krishnam Raju, The Kopalle Co-Operative Rural Bank Limited, No.1805, W.G.,Kopalle, Kalla Mandal,West Godavari District.

6.P.Rama Raju, S/o Suryanarayana Raju, The Kopalle Co-Operative Rural Bank Limited, No.1805, W.G.,Kopalle, Kalla Mandal,West Godavari District.

7. N.Venkateswara Rao, S/o Venkata Swamy, The Kopalle Co-Operative Rural Bank Limited, No.1805, W.G.,Kopalle, Kalla Mandal,West Godavari District.

8. A.Venkata Durga Devi, W/o Srinivasa Raju, The Kopalle Co-Operative Rural Bank Limited, No.1805, W.G.,Kopalle, Kalla Mandal,West Godavari District.

9. S.Venkata Appala Satyanarayana, S/o Srinivasa Rao, The Kopalle Co-Operative Rural Bank Limited, No.1805, W.G.,Kopalle, Kalla Mandal,West Godavari District.

10. G.Satyanarayana, S/o Narayana Rao, The Kopalle Co-Operative Rural Bank Limited, No.1805, W.G.,Kopalle, Kalla Mandal,West Godavari District.

..... PETITIONER

AND

1. The Government of Andhra Pradesh, rep.,by its Secretary, Agriculture and Co-Operation Department, Secretariat, Hyderabad.

2. The Commissioner and Registrar of Co-Operative Societies,Andhra Pra;desh, Hyderabad.

3. TheDistrict Co-Operative Officer, West GodavariDistrict,Eluru.

4. The KopalleCo-Operative Rural Bank Limited, No.1805, W.G.,Kopalle, Kalla Mandal, West GodavariDistrict by its Chair-Person.

5. The General Manager, District Co-Operatie Central Bank, Eluru. W.G.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate writ, order or direction declaring the action of the 3rd respondent in directing the 4th respondent to terminate the services of the Employees on the ground that their appointment is contrary to Act 2 of 1994 Vide Circular RC.No.Establishment/P.I.C.Committee/2002-03, dated 21.03.203 and the consequential Notice dated 28.04.2003 issued by the 4th respondent herein as illegal, arbitrary, unreasonable, null and void without jurisdiction and violative of Articles 14, 16 and 21 of the Constitution of India and contrary to the A.P. Shops and Establishment Act.

Counsel for the Petitioner: MR.A.V.SESHA SAI

Counsel for the Respondents No.1 to 3: GP FOR AGRICULTURE

Counsel for the Respondent No.4: Mr.V.Venkataramana

Counsel for the Respondent No.5: Mrs.A.Malathi

The Court made the following:

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ORDER:

Immediately after allowing the Rev. W.P.M.P.No.30797 of 2004 both the learned Counsel appearing for the parties advanced their arguments in the writ petition.

In this writ petition, the petitioners who are the employees of the 4th respondent society questioned the order of the 4th respondent dated 28.04.2003, wherein the said proceedings have been initiated against the petitioners calling upon them as to why their services shall not be terminated on the ground that their appointments have been made contrary to and in violation of Act 2 of 1994.

I have taken a view that the appointment or termination of the employees of a Co-operative Society must be only in accordance with the mandatory provisions of Section 116(C) of A.P. Co-operative Societies Act read with Rules 28 (4)(b) and 34(B) of A.P. Co-operative Societies Rules. The appointment of petitioners is in accordance with the said mandatory provisions, their services cannot be terminated on the ground that their appointment is in violation of Act 2 of 1994. Accordingly, the impugned notice dated 28.04.2003 issued by the 4th respondent based on the Circular, dated 21-3-2003 issued by the District Co-operative Officer, West Godavari District, Eluru, is set aside keeping it open for the respondents to take any appropriate action against the petitioners if their appointment or their continuance in the said society is not in conformity with the principles laid down under Section 116(C)(1) of the A.P. Co-operative Societies Act read with Rule 28(4)(b) and 36(B) of A.P. Cooperative Societies Rules.

The writ petition is accordingly disposed of.

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V.ESWARAIAH, J

DATE:28.03.2005

Note: Issue operative portion by wire.

B/o

MRKR

To

1. The Government of Andhra Pradesh, rep.,by its Secretary, Agriculture and Co-Operation Department, Secretariat, Hyderabad.

2. The Commissioner and Registrar of Co-Operative Societies,Andhra Pra;desh, Hyderabad.

3. TheDistrict Co-Operative Officer, West GodavariDistrict,Eluru.

4. The KopalleCo-Operative Rural Bank Limited, No.1805, W.G.,Kopalle, Kalla Mandal, West GodavariDistrict by its Chair-Person.

5. The General Manager, District Co-Operatie Central Bank, Eluru. W.G.District.

6. Two C.Cs to the Government Pleader for Agriculture, High Court Buildings, Hyderabad.

7. Two C.D.copies.